



EXPRESS MAIL NO. EV207744088US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Brian Gerard Duperrouzel et al.
Application No. : 09/124,468
Filed : July 28, 1998
For : WEB PAGE DISPLAY SYSTEM

Examiner : T. Hailu
Art Unit : 2173
Docket No. : 520044.401
Date : November 6, 2002

Box DAC
Commissioner for Patents
Washington, DC 20231

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OFFICE OF PETITIONS

DECLARATION OF ROBERT IANNUCCI IN SUPPORT
OF PETITION TO REVIVE UNDER 35 C.F.R. § 1.137

Commissioner for Patents:

I, Robert Iannucci, declare and state that:

I am an attorney of record in this application and admitted to practice before the Patent and Trademark Office, Registration No. 33,514.

I understand that the above-referenced patent application went abandoned on November 7, 2001 because of a failure to respond to an office action mailed August 6, 2001. I believed that the entire delay in responding to the office action was unintentional in view of the following facts detailed below. The delay was unintentional because no person involved with the application or the assignees ever decided to permanently abandon the application. In particular, no person involved with the application or the assignees ever reviewed the office action and cited references and decided that protection could not be obtained. In fact, some claims of the application were already deemed allowable by the Examiner, and many others were believed to be allowable as soon as the cited references were reviewed by me.

The primary cause of the delay was an attempt by Seed first to obtain payment from the original assignee, Katiesoft for a reply to the office action, and second to find a

company willing to purchase the application and pay for the reply. An agreement for Microsoft to purchase the application was reached only within the last two weeks.

The August 6, 2001 office action was received at the offices of Seed on August 13, 2001. On August 25, 2001, Michael Donohue, an attorney at Seed at the time, reported the office action to David Parker and Angus Chassels (one of the inventors) at Katiesoft (see printed email at Attachment A). Mr. Donohue sent a second email to Mr. Parker on August 31, 2001 which discusses the office action in more detail (see printed email at Attachment B). The email states that Mr. Donohue did not study the references cited in the office action and that Mr. Donohue had no opinion regarding the relevance of the references. Mr. Donohue also reported that the due date for responding to the office action was November 6, 2001 and that the due date could be extended up to three months.

On October 11, 2001, Mr. Donohue sent another email (Attachment C) to Mr. Parker explaining that Mr. Donohue could do no further work on the matter without an advance fee deposit because of the large amount of money owed by Katiesoft to Seed. On October 12, 2002, Mr. Parker sent an email (Attachment D) to Mr. Donohue stating that he saw no alternative to abandonment, but asked if there was any value to the IP for Seed. On November 6, 2001, Mr. Donohue sent an email (Attachment E) to Mr. Parker stating that Seed would be willing to accept assignment of the above-referenced patent application (and another patent application that Seed had filed on behalf of Katiesoft) in lieu of money owed by Katiesoft to Seed. On December 18, 2001, Katiesoft assigned the applications to Seed, the assignment being filed for recording on December 19, 2001.

On December 20, 2001, Mr. Donohue sent an email (Attachment F) to Bill Ferron, who was and is the Chief Executive Officer of Seed, requesting advice on what should be done with respect to the above-referenced patent application given that some claims were allowed and that Mr. Donohue believed more claims should be allowed. Mr. Ferron responded that day (see email at Attachment G) advising Mr. Donohue not to respond to the office action unless Mr. Donohue believed he could obtain some of the money that was owed to Seed by Katiesoft.

In January, 2002, Mr. Donohue asked me if I believed Microsoft would be interested in buying the applications assigned to Seed by Katiesoft. I said that he should call Patricia Bornes, a patent attorney at Microsoft, and gave him her phone number on January 31, 2002 (see email at Attachment H). Mr. Donohue discussed the application with Microsoft attorneys several times in the next months, but no agreement could be reached. On April 29, 2002, Mr. Donohue sent an email (Attachment I) to Kevin Luo, a Microsoft attorney, explaining that a response to the office action would have to be filed along with the petition to revive the application. Before a final agreement could be reached, Mr. Donohue left Seed in June 2002.

Mr. Luo also changed responsibilities at Microsoft and was no longer assigned to the group that was interested in buying the Katiesoft patent applications.

The Katiesoft files were misplaced due to the departure of Mr. Donahue and were re-discovered at Seed on July 24, 2002. In response, I attempted to contact Microsoft to see if an agreement could be reached for Microsoft to purchase the Katiesoft applications. After several discussions between myself and attorneys for Microsoft, an agreement was reached on October 28, 2002 for Microsoft to purchase the present application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of any patent issuing from this patent application.

Dated this 6th day of November, 2002.



Robert Iannucci
Registration No. 33,514

Enclosures:

Attachments A-I

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